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PREPARATORY COMMITTEE FOR THE UNITED
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Fourth session
New York, 2 March-3 April 1992
Working Group III
Item 3 of the provisional agenda*

PRINCIPLES ON GENERAL RIGHTS AND OBLIGATIONS

Chairman's consolidated draft

Addendum

Draft principles proposed by the delegation of Peru

Preamble

1. We human beings are an integral part of nature and our relationship with Earth must be harmonious.

2. The incipient development of an ecological culture and ethic has created disharmony between man and nature. Enumeration of the main ecological and global issues, describing the state of deterioration of the environment, including problems of extreme poverty, and highlighting the threats that face present and future generations.

3. Define clearly and very concisely the concept of sustainable development.

4. Stress that international security in the twenty-first century, now that the cold war is over, will be a shared, global security whose cornerstones will be environmental protection and the pursuit of sustainable development, elimination of extreme poverty, respect for human rights and the effective functioning of democracy.

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* See A/CONF.151/PC/96.

5. Appeal to mankind to endorse and promote the Earth Charter.

Specific principles

(a) Obligation to protect the atmosphere, combat climate change and cooperate in order to prevent depletion of the ozone layer;

(b) Protection of the oceans and of all seas, coastal areas, rivers, lakes and islands, and rational use of living marine resources;

(c) Protection of the Earth's resources and right to use them appropriately, combating desertification, deforestation and drought;

(d) Conservation of biodiversity;

(e) Protection of drinking water quality and supply;

(f) Environmentally sound management of waste and toxic products and prevention of illegal international traffic in such wastes and toxic and other hazardous products;

(g) Human settlements and population policy to enhance the quality of life of the poorest sectors in urban and rural areas;

(h) International responsibility to refrain from environmental destruction or deterioration during armed conflicts;

(i) Promotion of education on the environment and sustainable development.

Operative principles

(a) States' obligation to submit reports on the state of their environment and their compliance with the Earth Charter;

(b) Organization of conferences or meetings at certain intervals to review compliance with the Earth Charter;

(c) Consultations among agencies, States, non-governmental organizations and transnational corporations to deal with specific cases of environmental protection or to take precautions with regard to activities which might harm it;

(d) Right to confidential communications or complaints in cases of grave, flagrant and persistent damage to the environment;

(e) Settlement of disputes through consultation, good offices, mediation, conciliation, arbitration and judicial settlement.

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Proposal and comments submitted by the delegation of Malta

Who are future generations?

1. Future generations are those members of the human species who are not yet present today, not even born or conceived. Of course nobody needs persuasion that these are members of the human race. But because we do not know who these persons are and what they want, and because they do not yet exist, we tend to ignore them. This was not so much of a problem in the previous eras, but in the present age we have acquired such a technological power that we can affect, positively and negatively, those who will be living in the far-distant future.

Threats to future generations

2. Beyond doubt, the well-being of future generations has become an imperative goal in our day because modern science and technology have given us an unprecedented power to change the environment extensively lastingly, and in part irreversibly. With the recent manipulation of genetic material we can deal with substances and processes which might affect the future of all life on earth.

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* See A/CONF.151/PC/96.

3. It has now become evident that the present generation sets the causes of events that will affect our descendants. Previously, human activity was thought to have consequences only on immediate generations. Now, we have become aware that human activity can have positive and negative effects on the human species far into the future. The present generation is becoming more and more aware that it is an immense irresponsibility on the part of individuals, groups, countries and even the international community to make socio-economic and political decisions without taking into account their far-distant consequences.

4. Actions and decisions taken now are limiting the options which will be available to the generations to come. One of the greatest dangers is increasing destruction and depletion of living resources which are essential for human survival and sustainable development. The present threat to ecological and genetic diversity poses grave problems for future generations.

Future generations are disadvantaged

5. Future generations need to be protected because they are in a disadvantaged position with respect to the present generation who has the power to overpopulate the earth, to spoil the delicate balance of the biosphere, to store nuclear wastes which are disastrous to the genetic heritage of posterity, to deplete the earth's natural resources and to use genetic engineering techniques to affect the unity of the human species.

6. Future generations are inherently disadvantaged with respect to present generations in three important ways: (a) they are "downstream" in time from us and thus subject to the long-term consequences of our actions; (b) they are "mute", having no representatives among present generations and so their interests are often neglected in present socio-economic and political planning; and (c) they cannot plea or bargain for reciprocal treatment since they have no voice and nothing they do will affect us.

Responsibility and foresight

7. The ethical issue concerning our relationships with future generations is becoming more and more pressing. It is becoming evident that the present generation is duty-bound to foresee the possible risks or uncertainties which present economic, political and technological policies have on future generations with regard to such important issues as the use of nuclear energy, the emission of artificially produced gases in the atmosphere, other forms of environmental pollution and hazards to human beings. Responsibility demands foresight. Effective measures should be taken to prevent them. The time-scale adopted to assess the impact of present activity on the future of mankind should be long enough.

The "guardian"

8. Working Group III must be congratulated for including the concept of responsibilities towards future generations in the context of preparing principles on general rights and obligations.

9. Time is now ripe enough to give a practical substance and a concrete form to our responsibilities towards future generations. In order to pass from theory to praxis and from mere words to action, a specific mechanism (the guardian) should be developed to encourage our responsibility towards generations yet to be born and at the same time to safeguard their interests from present threats.

10. It is a long-established tradition in almost all civilized societies of the world that persons who are declared legally incompetent, such as minors and the mentally infirm, are protected by a set of institutions from those who might either advertently or inadvertently exploit their disadvantage. For instance, some other individual or group is charged with the responsibility of acting as proxy, or an advocate, on behalf of the person whose ability to represent his or her own interests is nonexistent or impaired.

11. In this respect - the ability to appraise what one's interests are and how they might best be protected - future generations are similar to those that our society has declared legally incompetent. The same consideration that presently support proxies for the incompetent among our contemporary also give credence to the idea of a proxy for future generations where contemplated policies could impose substantial long-term risk.

12. An authorized person ("guardian") should be appointed to represent future generations at various international fora, particularly the United Nations. The "guardian" would be entitled to appear before institutions whose decisions could significantly affect the future of the species to argue the case on behalf of future generations, hence bringing out the long-term implications of proposed action and presenting alternatives. His role would not be to decide, but to promote enlightened decisions. Thus, the guardian would have the power of advocacy, to plead for future generations.

13. Hence, the crucial aspect of the guardian's role would be to introduce a new dimension - that of the time horizon - into the resolution of issues traditionally confined to the here and now. The guardian would face the burden of opposing the firmly established attitude of our civilization in discounting the future. He would have no decision-making power. He would only have the right to put forward arguments on behalf of future generations.

14. The appointee to the office would need to be an eminent person, without known prejudices, and having practical wisdom, integrity, moderation and humility, with an ability to feel the pain and share the joy of people who will live at a great distance from us in time.

15. The appointment of a "guardian" would be the most appropriate way to implement those principles concerning our responsibilities to future generations which have already been endorsed in various national and international declarations, treaties and conventions. The responsibility of the present generation to safeguard the interests of those yet to be born is already invoked as a principle on the basis of which questions involving conflicts of interests can be resolved in the Stockholm Declaration on the

Human Environment (1972), and the Charter of Economic Rights and Duties of States. The duty to safeguard the interests of future generations with regard to living systems is invoked in the Preamble to the International Convention on Whaling, in General Assembly resolution 1629 (XVI) and later ones on nuclear testing, and various documents relating to national parks. The same duty is invoked with regard to non-living resources in the Recommendation on the Protection of the Cultural and National Heritage (1974), in the UNESCO Agreement on the Abu Simbal Temples (1976), in the Moon Treaty (1979), and in the World Charter for Nature (1981).

16. These and other statements by international bodies are a sign of the increasing recognition of our responsibilities to far-distant unborn generations. Recognition alone, however, is not enough! There must be implementation of principles. Time is now ripe enough to translate words into concrete actions. The appointment of an advocate to alert the international community of threats to the well-being of future generations would be the most concrete step in the right direction to safeguard the disadvantaged members of the human species.

17. The Maltese Government wishes to make the following proposal to Working Group III:

> "We declare that each generation has, in particular, the responsibility to ensure that in any national or international forum, where it is likely that a decision be taken affecting the interests of future generations, access be given to an authorised person appointed as 'Guardian' of future generations to appear and make submissions on their behalf, so that account be taken of the responsibilities stated in this Declaration and the obligations created thereby."

This proposal is the central aspect of the draft declaration on our responsibilities towards future generations.